

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

Requirements for Digital Television
Receiving Capability

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ET Docket No. 05-24

**REPLY COMMENTS OF THE
CONSUMER ELECTRONICS ASSOCIATION**

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SUMMARY

Market forces and not mandates drive consumer purchase patterns. Consumer demand ultimately controls the array of television receivers that retailers purchase and order in a highly competitive retail marketplace; manufacturers have no control over what sets retailers will place on their shelves and retailers must respond to consumer demand. Those consumers who are not compelled by digital over-the-air reception will almost certainly choose a less expensive single-tuner device.

The awareness of digital television has skyrocketed over the past 18 months, with nine out of ten adults now aware of at least one term used to refer to high-definition television, such as “digital television” or “HDTV”. Broadcasters remain idle as manufacturers continue to lead efforts to educate consumers and retailers about the transition to digital television. It is incumbent on broadcasters to educate consumers about the benefits of broadcast television and to support a firm end date for analog broadcasting.

The proposed revisions to the tuner mandate schedule outlined in the Commission’s NPRM and in the CEA-CERC Petition will advance the DTV transition by expediting delivery of mid-size television receivers equipped with DTV tuners. It also will result in a net gain in the number of DTV tuners in consumers’ homes. If adopted, the proposal will also will eliminate the unintended consequences of the Commission’s 50 percent requirements that became apparent in manufacturing and at retail only recently, and which threaten to impede the roll-out of television receivers equipped with DTV tuners.

By contrast, accelerating the tuner mandate schedule as some commenters propose, could *decrease* the number of television receivers with ATSC tuners. If television manufacturers determined that it was not feasible to meet an accelerated schedule, then it is

highly possible that they would resort to producing only monitors with no over-the-air capability. This clearly would impede Commission's goal of ensuring the roll-out of television receivers equipped with DTV tuners.

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To: The Commission

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The Consumer Electronics Association (“CEA”), respectfully files these Reply Comments in support of the Commission’s proposals in its Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceeding.¹ This NPRM was issued in response to the Petition for Rulemaking of the Consumer Electronics Association (“CEA”) and the Consumer Electronics Retailers Coalition (“CERC”) requesting that the Commission accelerate to March 1, 2006, its requirement that all television receivers with screen sizes of 25 to 36 inches incorporate digital television (DTV) tuners; and that it eliminate the July 1, 2005 date for 50 percent of such receivers to include DTV tuners (“CEA-CERC Petition”).²

CEA believes that a grant of the CEA-CERC Petition will advance the DTV transition by expediting delivery of these popular mid-size television receivers equipped

¹ *In the Matter of Requirements for Digital Television Receiving Capability*, Notice of Proposed Rulemaking, ET Docket No. 05-24, FCC 05-17 (rel. Feb. 14, 2005) (“NPRM”).

² *See* Petition of Consumer Electronics Association (“CEA”) and the Consumer Electronics Retailers Coalition (“CERC”), ET Docket No. 05-24, filed on November 5, 2004 (“CEA-CERC Petition”).

with DTV tuners and will result in a net gain in the number of DTV tuners in consumers' homes. It also will eliminate the unintended consequences of the Commission's 50 percent requirements that became apparent in manufacturing and at retail only recently, and which threaten to impede the roll-out of television receivers equipped with DTV tuners.

After reviewing the comments filed in this proceeding and for the reasons expressed herein, CEA urges the Commission to accelerate the 100 percent requirement and repeal the 50 percent requirement for 25 to 36 inch receivers to incorporate digital tuners, as requested.

I. SEVERAL SUPPORTERS OF THE COMMISSION'S PROPOSALS ACCURATELY EXPRESS CURRENT MARKET REALITIES

Numerous parties filed in support of the Commission's proposals and in support of the original CEA/CERC Petition.³ As Philips and Panasonic aptly raise in their comments, consumer demand ultimately controls the array of television receivers that retailers order in a highly competitive retail marketplace.⁴ Manufacturers have no control over what television sets retailers will purchase and place on their shelves and retailers ultimately must respond to consumer demand. SHARP notes that under the 50

³ See Comments of Harris Corporation, Comments of Sony Electronics Inc., Comments of Panasonic Corporation of North America, Comments Philips Electronics of North America Corporation, Comments of SHARP Electronics Corporation, Comments of Sanyo Manufacturing Corporation, Comments of Sanyo Fisher Company, Comments of Wal-Mart Stores, Inc., Comments of Samsung Electronics Corporation, Comments of Best Buy Co., Inc., Comments of Circuit City Stores, Inc., Comments of RadioShack Corporation, Comments of Hewlett Packard Company, Letter from Dell, Inc.

⁴ See Comments of Philips Electronics of North America Corporation, at 2 (filed April 18, 2005) ("Philips Comments"); see also Comments of Panasonic Corporation of North America, at 3 (filed April 18, 2005).

percent mandate, those consumers who are not compelled by digital off-air reception will almost certainly choose a [less expensive] single-tuner device.⁵

Harris Corporation clearly recognizes the benefits of accelerating the 100 percent deadline to March 1, 2006 and the concomitant economies of scale: more television receivers with ATSC tuners will be available in the market, which will lower cost and increase consumer demand.⁶ While opponents of the proposals remain fixated on the “holiday selling season”,⁷ market forces and not mandates drive what consumers will purchase. As CEA and CERC discussed in their Petition, “consumers typically choose a lower-priced product with otherwise similar features, except for the DTV tuner”⁸ For the more than 85 percent of U.S. homes who subscribe to satellite or cable services and therefore do not need an over-the-air tuner (OTA), the choice to purchase a lower-priced set is obvious.

The CEA/CERC proposal was made in direct response to market forces. CEA, therefore, fully supports the views expressed by Philips, SHARP, Panasonic, and Harris and welcomes their understanding of current market reality and consumer behavior.

II. OPPONENTS’ PROPOSALS LACK CREDIBILITY AND FAIL TO RECOGNIZE REALITIES IN MANUFACTURING CYCLES

Opponents to the proposals in the NPRM suggest that if that the Commission eliminates the 50 percent phase-in schedule for 25 to 36 inch sets to incorporate DTV

⁵ See Comments of SHARP Electronics Corporation, at 2 (filed April 18, 2005) (“SHARP Comments”).

⁶ See Comments of Harris Corporation, at 3 (filed April 18, 2005) (“Harris Comments”).

⁷ See Joint Comments of The Association for Maximum Service Television, Inc. and The National Association of Broadcasters, at 2 (filed April 18, 2005) (“MSTV/NAB Comments”); Comments of Motorola, Inc., at 3 (filed April 18, 2005) (“Motorola Comments”); Comments of The Walt Disney Company, at 5 (filed April 18, 2005) (“Walt Disney Comments”); Comments of Pappas Telecasting Companies, at 3 (filed April 18, 2005) (“Pappas Comments”).

⁸ CEA-CERC Petition, at 4.

tuners, that it should accelerate the 100 percent requirement. In their comments, MSTV/NAB, Pappas, and The Walt Disney Company ask the Commission to advance the 100 percent date to late 2005.⁹ Motorola asks the Commission to advance the date to November 1, 2005.¹⁰ Motorola and Pappas further suggest that the Commission should advance to November 1 and December 1, 2006, respectively, the July 1, 2007 requirement for 13 to 24 inch receivers and TV interface devices to include DTV tuners.¹¹

CEA finds it highly ironic that MSTV/NAB now claim to support the urgency with which Congress, the Executive Branch, and the Commission wish to conclude the transition to digital transition.¹² Ever since the 2006 goal was set in 1996, the broadcasters have consistently created roadblocks to ensuring a timely transition and relinquishing their analog spectrum. Even as they feign acceptance of the 2006 date for the purposes of this proceeding, they continue to lobby against a 2006 date on Capital Hill. In fact, on April 27, 2005, Eddie Fritts, President of NAB sent a letter to House Energy and Commerce Committee Chairman Barton expressing broadcasters' concerns about a "premature end to analog television."¹³

CEA argues that eliminating the July 1, 2005 date by which 50 percent of 25 to 36 inch sets must include a DTV tuner does not mean that there will be zero percent of DTV tuner sets available in this size range prior to the implementation of the 100 percent

⁹ See MSTV/NAB Comments, at 1; Pappas Comments, at 3; Walt Disney Comments, at 5.

¹⁰ See Motorola Comments, at 2.

¹¹ See Motorola Comments, at 2; Pappas Comments, at 8.

¹² See MSTV/NAB Comments, at 4.

¹³ See Letter from Eddie Fritts, President, National Association of Broadcasters, to The Honorable Joe Barton, Chairman, House Energy and Commerce Committee, U.S. House of Representatives. The text of this letter can be found at:

<http://www.nab.org/newsroom/pressrel/statements/042705commcommitteeletter.htm> (visited May 2, 2005).

requirement. Manufacturers do not change entire product lines on the date compliance takes effect.¹⁴ There is necessarily a substantial lead-in period during which manufacturers will be increasing the inclusion of DTV tuners. With an accelerated 100 percent deadline to March 1, 2006, this lead-in period naturally includes the holiday season about which the broadcasters express concern. To say that the entire holiday season will be missed is misguided and not reflective of market realities.

Motorola's proposal to accelerate the deadlines for inclusion of DTV tuners in sets is entirely disingenuous. First, as a manufacturer of electronic equipment and components (including wireless devices and cable set-top boxes), Motorola is well aware of manufacturing cycles and the significant lead time needed to plan, develop, and deploy new equipment. As cited by NCTA in *ex parte* presentations made in the Navigation Devices proceeding and endorsed by Motorola through its own *ex parte* appearances, "A minimum of 18 months is required for operators to order, have delivered, and deploy CableCARD enabled set-top boxes."¹⁵ Clearly, this timeline for manufacturing set-top boxes was not generated by NCTA, who itself is not a manufacturer, but was provided by Motorola, one of two set-top box manufacturers for the cable industry. Under Motorola's proposal in this proceeding, television manufacturers would have four months to comply with a November 1, 2005 date (if the Commission issued its order by July), and sixteen months to comply with a November 1, 2006 date.

¹⁴ The FCC clearly recognizes this reality and previously accommodated a similar technical mandate for inclusion of program blocking capability with a 50% phase-in approach. See 47 C.F.R. §15.120(a)(2004); *Technical Requirements to Enable Blocking of Video Programming Based on Program Ratings*, ET Docket No. 97-206, Report and Order, 13 FCC Rcd 11248 (1998). Such a phase-in approach works when applied to product models. It fails in the case of the tuner mandate, however, because the phase-in is applied to units, which consumers choose on price, and the tuner mandate schedule causes a substantial cost differential in these screen sizes.

¹⁵ See letter from Neal M. Goldberg, General Counsel, National Cable and Telecommunications Association to Ms. Marlene Dortch, Secretary, Federal Communications Commission, CS Docket 97-80 (November, 17, 2004), at 4.

The fact that Motorola suggests a manufacturing schedule for television manufacturers that severely truncates what is feasible from a manufacturing perspective clearly indicates a self-serving interest. It cannot go unnoticed that as a manufacturer of set-top boxes, Motorola would stand to gain by an accelerated schedule. If television manufacturers determined that it was not feasible to meet an accelerated schedule, then it is highly possible that they would resort to producing only monitors with no over-the-air capability. Of course, consumers would be driven to subscription services like cable (or satellite) in which they would need a set-top box provided by their cable provider. This begs the question: if the Commission chooses to accelerate the tuner mandate schedule, then would Motorola agree to include broadcast digital tuners in cable set-top boxes?

Second, as a manufacturer of wireless devices and a vocal advocate for returning the analog spectrum for non-broadcast use, Motorola stands to reap huge gains upon return of the spectrum. CEA argues that not having a firm end date for analog broadcasting is delaying the prompt return of the spectrum for other uses. Instead of offering self-interested and impractical proposals, Motorola should be directing its efforts at gaining broadcast industry support for an earlier end date for analog broadcasting. Any arguments that the consumer electronics industry should have *further* mandates placed on it to Motorola's direct benefit ring hollow and should be dismissed as lacking credibility.

Philips aptly maintains that at this late date, manufacturers cannot reasonably meet any further acceleration of the tuner mandate schedules.¹⁶ The consumer electronics industry remains committed to the schedule proposed in the CEA-CERC Petition and the NPRM in order to promote the digital transition and the public interest.

¹⁶ See Philips Comments, at 6.

Like Panasonic, however, CEA fears that any further acceleration of the tuner schedules could erode to the Commission's intended goal of ensuring availability of sets with DTV over-the-air tuners, as some manufacturers may be forced to increase their production of tuner-less monitors and/or drop certain models altogether because of their inability to meet the Commission's deadlines.¹⁷

In its comments, The Association of Public Television Stations (APTS) appears to misunderstand the nature of ATSC tuning capability by stating its concern that "even those sets with required ATSC tuners may be lacking ATSC decoders required to achieve full over-the-air reception capability."¹⁸ Any television with an ATSC tuner is fully capable of ATSC reception. The regulations at 47 C.F.R. Section 15.117 require "digital television reception capability" and only mention DTV tuners as shorthand in the phase-in schedule.¹⁹ Mr. Schubin's article, which triggers APTS's misunderstanding, muses over the inconsistencies of terms such as "tuner" and makes no suggestion that products exist with ATSC tuning capability but without decoding capability. There is no ambiguity in the Commission's rules on this subject.

III. MANUFACTURERS CONTINUE TO LEAD THE WAY IN EDUCATING CONSUMERS AND RETAILERS ABOUT THE TRANSITION TO DIGITAL TELEVISION WHILE BROADCASTERS REMAIN IDLE

CEA has voluntarily undertaken a variety of initiatives and programs aimed at increasing consumer and retailer awareness and understanding of the DTV transition as well as related products and services. It is ironic that the Association for Maximum Service Television ("MSTV") and the National Association of Broadcasters ("NAB"),

¹⁷ See Panasonic Comments, at 5.

¹⁸ See Comments of The Association of Public Television Stations, at 3 (filed April 18, 2005) ("APTS Comments").

¹⁹ See 47 C.F.R. Section 15.117 (2004).

who have done little or nothing in this realm, should question CEA's tireless efforts to educate consumers and retailers about the transition.²⁰ CEA has repeatedly called on the broadcast industry to step up its efforts to education consumers, yet broadcasters have remained idle in promoting their own industry while proposing further mandates on others.

For its part, CEA operates four websites that promote the DTV transition through consumer and dealer education. One of these websites specifically permits consumers and salespeople to determine the free, over-the-air DTV signals that can be received at their location and what type of antenna is needed to do so. This website is located at www.antennaweb.org and it receives approximately 100,000 hits per month. CEA also maintains another website at www.ceknowhow.com, an online program that is designed to equip retailers with up-to-date product category training for sales associates. CEknowhow.com is customizable, allowing retailers to license and tailor the program to suit their particular needs. In 2004, more than 24,000 sales persons completed training via CEknowhow.com. In October 2004, CEA released *The Connections Guide* website, an interactive resource designed to help consumers better understand how to connect their audio and video (including DTV) products. In addition to these web sites, CEA includes a wealth of information about HDTV on its own web site: www.ce.org/hdtv.

CEA continues to take the DTV message on the road by hosting regional "HDTV Updates" with local retailers, broadcasters, manufacturer representatives and cable and satellite providers. In 2003 and 2004, CEA hosted twenty-five HDTV Updates nationwide. Through these "HDTV Update" meetings, CEA contributes a valuable national perspective – facts and ideas gained from past experiences and travels across the

²⁰ See MSTV/NAB Comments, at 9-10.

country – and the local parties have the opportunity to meet one another to share perspectives and information in order to grow DTV in their own market – in their own unique way. In 2004, the Federal Communications Commission (FCC) joined CEA at several “HDTV Updates” and offered its valuable perspective about the DTV transition.

CEA also publishes a number of articles to educate consumers and retailers. Together with STARZ HD, CEA produced a buyer's guide on HDTV. The Starz HD brochure is posted online at www.ce.org/hdtv. CEA also designed, printed, and has made available to retailers a “tip sheet” or card that explains the DTV transition and basic DTV terms and technology. In late 2004, CEA partnered with the FCC and the Consumer Electronics Retailers Coalition (CERC) to extend the reach of its consumer/retailer tip sheet: “Buying a Digital Television”. In addition to being posted on CEA’s web site, thousands of these “tip sheets” have been distributed to date, including at the International Consumer Electronics Show, to the Professional Audio-Video Retailers Association (“PARA”) who distributed them to their members, to the Home Theater Specialists of America (“HTSA”), and at CEA’s HDTV Summit. The “tip sheet” also has been published twice the HDTVGuide, which is distributed to 20,000 TWICE subscribers. This distribution extends further through press kits and education, CEA’s distribution lists, and to all CEA events.

CEA is proud to support Decisionmark’s new consumer and retailer website, CheckHD, by providing educational materials and information for the site, including the consumer brochure and the HDTV Guide. CheckHD includes information about local channels and programming, antenna selection by zip code and DTV equipment.

In December 2003, CEA purchased national coverage in *TV Guide* for a multi-

page *Home Entertainment Buyers' Guide* to explain DTV to viewers and describe the kinds of reception equipment available to them. In June, 2004, a similar special section was run in *Sports Illustrated*. Working with Comcast, CEA also published an educational DVD and booklet *A Consumer's Guide to the Wonderful World of HDTV* that explains the DTV transition and makes practical suggestions for selecting and purchasing suitable reception equipment.

Together with TWICE magazine, CEA produces the HDTVGuide three times per year. The HDTVGuide is a key resource for information on the analog-to-digital transition. It includes product charts, suggested retail prices, a list of retailers that carry HDTV products and a list of the broadcasters sending HDTV signals. The HDTVGuide can be found at www.ce.org/hdtv. CEA also produces "HDTV Update E-News", which is produced several times per year and is sent to hundreds of retailer, manufacturers, and media subscribers.

To further show its dedication to educating U.S. consumers regarding the DTV transition, CEA and its members have agreed to support an advisory label for sets with analog-only broadcast tuners when a firm cut-off date for analog broadcasting has been adopted by Congress.

CEA and DTV equipment manufacturers remain committed to leading the way in providing point-of-sale educational materials and overall HDTV promotion and DTV transition education. In order to achieve maximum results, we need and (once again) call for involvement from all transition leaders, especially broadcasters.

A. Consumer Awareness of Digital Television is Strong and Growing

According to CEA market research, nearly half of all consumers plan to make their next television purchase a high-definition set.²¹ The awareness of digital television has skyrocketed over the past 18 months, with nine out of ten adults now aware of at least one term used to refer to high-definition television, such as “digital television” or “HDTV”. Seventy-six percent of U.S. adults expressed familiarity with details about HDTV, compared to 54 percent in 2003. In addition, the percentage of adults who are not familiar has fallen by half, from 42 percent in 2003 to 22 percent today. Eighty-four percent of consumers have seen an HDTV somewhere in the last 12 months, whether it was in a retail store or in their own home.

B. Broadcasters Must Use Their Considerable Resources to Educate Consumers

The fact that so many U.S. consumers are aware of digital television is a positive reflection of the educational efforts that are underway, however, it is imperative that the broadcasters join these efforts in order to ensure even more awareness of the digital transition among U.S. consumers.

Free over-the-air television is the central issue in this proceeding and it is central to the DTV transition. CEA urges broadcasters to stop pursuing a policy of regulating other industries — consumer electronics, cable, satellite and others — and instead devote their considerable resources to promoting their industry and educating their viewers on the digital television transition. It is ironic that while the consumer electronics industry is spending significant resources on programs like www.antennaweb.org to educate consumers about the use of over-the-air antennas, there is no equivalent program supported by the broadcast industry. Similarly, broadcasters largely refuse to run public

²¹ See CEA press release: *Consumer Acceptance of HDTV on the Rise*, March 22, 2005 (http://www.ce.org/press_room/press_release_detail.asp?id=10719).

service announcements (PSAs) on the digital television transition. In the final analysis, the fact is that it is up to broadcasters to get off the sidelines and educate consumers about the benefits of broadcast television.

IV. CURRENT SALES STATISTICS UNDERSCORE THE STRONG AND GROWING MARKET FOR DIGITAL TELEVISIONS

Since 1998, approximately seventeen million DTV units have been sold in the U.S. According to CEA market research, February 2005 unit sales to dealers of direct view and rear projection digital television (DTV) products rose 43 percent over February 2004. Full year 2005 sales are expected to more than double the final 2004 total of 7.3 million units.²² Total February 2005 sales of DTV products, including monitors, displays, and integrated sets reached 498,554 units on dollar sales of \$669.4 million, marking a 29-percent increase over combined sales in February 2004. These figures represent strong consumer demand for digital products.

While this demand continues to grow, CEA recently revised its 2005 projections of DTV sales from 20 million unit sales to 15 million.²³ The original projections were based on a belief that both the broadcast and cable industries would support actions that would help to accelerate the transition to digital television. Specifically, the broadcast industry has consistently opposed the establishment of a “date certain” by which to end analog broadcasts, and also by blocking the CEA-CERC petition, which would indeed ensure the earlier availability of more televisions with digital tuners.

²² See CEA press release: *February Digital Television Sales Underscore Strong and Growing Market*, April 15, 2005 (http://www.ce.org/press_Room/press_release_detail.asp?id=10727).

²³ See *id.*

CEA fully supports the views expressed by Philips that consumer demand for integrated ATSC television receivers has lagged what the Commission might have expected and preferred.²⁴ Philips appropriately notes the issues that have contributed to this lagging interest: consumers are unaware of digital broadcasts because few newspapers carry program listings for the digital channels, and significant percentages of consumers are outside of many broadcasters' low-powered digital signals (i.e., broadcasters are not operating their signals at full power).²⁵

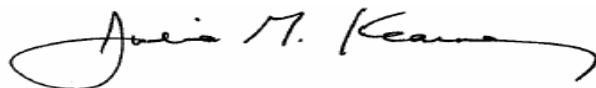
²⁴ See Philips Comments, at 3.

²⁵ *Id.*

V. CONCLUSION

For the reasons expressed herein and also enumerated by numerous commenters in this proceeding, the proposals in the Commission's NPRM and the CEA-CERC Petition better align the Commission's policy with market forces and consumer expectation and will promote a successful transition to digital broadcasting. CEA further acknowledges and supports the Commission's intention that there will be no revisions to the July 1, 2007 date by which all broadcast television receivers include DTV reception capability.²⁶ CEA respectfully requests that the Commission grant the CEA-CERC Petition and adopt the rules proposed in the NPRM at the earliest possible time to allow manufacturers to meet the new schedule.

Respectfully submitted,



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²⁶ See NPRM, at 8.